Civil Misc. App. No.2242/2005
Ikram Ali ***Versus*** ***Krishna Gopal*** & Anr.

Date of Order ::: 07/08/06

Hon'ble Mr. Justice Ajay Rastogi

Mr.Vinay Mathur for appellant (Claimant)

Instant appeal has been filed for enhancement of compensation of Rs.30,000/- awarded by Motor Accident Claims Tribunal, Tonk vide Award dt.10/05/05 in MAC No.348/02.

Appellant (claimant) aged 22 years who was working as Salesman in cloth store, met with an accident on 24/04/02 wherein he sustained injuries on his hand legs & waist resulting into 7.5% disability with fracture on right tibia and fibula bones and remained hospitalized for 6-7 months. As alleged in claim petition, he was getting monthly salary of Rs.3,000/-. After taking note of totality of facts, learned Tribunal awarded compensation of Rs.30,000/- (including Rs.8,000/- loss of income for injuries sustained, and Rs.11,000/- loss of income due to 7.5% permanent disability; Rs.5,000/- damages for one grievous injury; Rs.3,000/- for medical expenses; Rs.2,000/- towards nutrition diet and Rs.1,000/- for transport charges) along with 6% per annum from the date of claim petition. Hence this appeal.

Counsel for appellants submits that compensation for loss of income towards permanent disability requires interference because it is not in consistent with schedule appended to the Motor Vehicles Act.

I have considered contentions of Counsel for appellant and with his assistance, examined material

on record. There is no material placed on record by claimant to show that as per salary certificate, he was drawing gross salary of Rs.3,000/- and further failed to show that he continued to be bedridden for 6-7 months whereas as per patient discharge ticket (Ex.2) he was admitted on 04/04/02 and discharged on 05/04/02 and as per another indoor patient ticket of Kota Hospital, he remained hospitalized for five days from 10/04/02 to 14/04/02; as such in absence of sufficiency of evidence, learned Tribunal took note of totality of facts especially nature of injuries sustained by claimant and considered Rs.8,000/- towards loss of income for the period during which he remained in hospital and under medical treatment and Rs.11,000/- as loss of income towards 7.5% permanent disability, in addition to Rs.5,000/- as damages for one grievous injury. In my opinion looking to age, nature of employment and disability sustained by claimant, what has been finally awarded by Tribunal on all heads being just, does not require interference by this Court. Consequently, this appeal fails and is hereby dismissed in limine.

(Ajay Rastogi), J.

K.Khatri/2242CMA2005.